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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

NORMAN, MARC E

ART UNIT PAPER NUMBER

3744

DATE MAILED: 03/11/2004

16

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/089,234

Applicant(s)

FRUHAUF ET AL.

Examiner

Marc E. Norman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 25 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 12-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12 and 16-19 is/are rejected.
- 7) ☒ Claim(s) 13-15 and 20-22 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Arguments*

Applicant's arguments filed 25 February 2004 have been fully considered but they are not persuasive. The Examiner accepts Applicant's argument that the claimed invention does not necessarily prescribe a degree of radiation, and therefore overcomes the 35 USC 112 rejection set forth in the previous Office Action (paper #15). However, if, as Applicant admits, the claimed invention does not prescribe radiation, but rather controls a thermal state based in part on a sensed radiation, then the invention of claim 12 is in fact anticipated by Heinle et al. as set forth in paper #12.

In Applicant's response (paper #15) to the 35 USC 112 rejection set forth in paper #14, Applicant argues that "a thermal state... is provided by the distribution of temperature and radiation effect.... Even if it is accepted that a thermal state requires both radiation and temperature, it is also true that a *prescribed state can be accomplished by controlling temperature....* That is, the radiation effect is measured and the thermal state is prescribed based on the result of the sun sensor and the temperature sensor." (paper #15, page 3) In other words, the system measures both temperature and radiation to determine a thermal state, and then controls air distribution and *temperature* based on the sensed temperature and radiation. However, as again set forth below, this interpretation of claim 12 is anticipated By Heinle et al. The rejections of claims 16-19, also reiterated below, are also carried forward and maintained.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 12 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Heinle et al.

As per claim 12, Heinle et al. discloses a vehicle air conditioning device comprising control element 1; a fan 12 including outlet nozzles (21b, 21c, etc.) and actuators (column 4, line 12) wherein the state of airflow is determined by air speed, location, and distribution to the nozzles (column 4, lines 29-33), an outlet direction of the nozzles (column 4, lines 55-60), and wherein a thermal state is provided by distribution of temperature and radiation effects (based on radiation and temperature sensors shown in Figure 1); and wherein at least one control element prescribes a determined flow and temperature for an occupant of the vehicle (column 4, lines 29-33).

As per claim 18, Heinle et al. further discloses a control panel with a control element 1 and a selection device 8 for storing and selecting different body regions of the occupant (column 3, lines 19-32).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heinle et al. in view of Danieau.

As per claim 16, Heinle et al. does not teach separate control panels for respective zones of the multi-zone system. Danieau teaches a climate control system with separate control panels for respective zones of the multi-zone system (see for example paragraph 40). It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply this multi-zone control of Danieau to the system of Heinle et al. for the simple purpose of allowing each passenger to control the climate in their respective zone.

As per claim 17, Heinle et al. a plurality of control panels for setting different body regions of the occupant. Danieau teaches each seat position having controls for controlling air flow and temperature to different points at each seat position (Abstract, lines 1-5). Again, it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply this multi-zone control of Danieau to the system of Heinle et al. for the simple purpose of allowing each passenger to control the climate at specific locations in their respective zone.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Heinle et al. in view of Ratgeber.

As per claim 19, Heinle et al. does not specifically teach a display means for displaying the control characteristics of the device. However, displays are common features of air conditioning control systems. Ratgeber et al. for example teaches a control display (Figure 1) for displaying the control characteristics of a vehicle air conditioning system including components of the A/C system (settings 12), air ducts (such as defrosting duct 16), the interior (zones I-IV), and occupants 14. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine a display such as that of Ratgeber et al. to the system of Heinle et al. for the simple purpose of allowing the user to see the status of the air conditioning system.

#### *Allowable Subject Matter*

Claims 13-15 and 20-22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### *Conclusion*

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc E. Norman whose telephone number is 703-305-2711. The examiner can normally be reached on Mon.-Fri., 8:00-5:30, with first Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Denise Esquivel can be reached on 703-308-2597. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MN



MARC NORMAN  
PRIMARY EXAMINER